

Chairman James Henderson called the meeting to order at 6:34pm at the Harpswell Community TV Studio, and led in the Pledge of Allegiance. Henderson introduced the Board members present: Don Rogers, Howard Nannen, and John Papacosma, and associate member Robert White, whom Henderson appointed as a voting member for tonight's meeting. Planner Jeremy Hatch and Planning Assistant Debora Levensailor were also present. The meeting was broadcast live on Harpswell Community TV, and taped. The agenda for the meeting was published in "The Times Record" on February 13, 2002.

Minutes of January 16, 2002 - After discussion, Nannen stated, "I move that the minutes of January 16, 2002 be approved with the corrections." White seconded. **Carried, 5-0.**

Minutes of the January 8, 2002 Public Hearing - Papacosma stated, "I move that the minutes of January 8, 2002 be approved as written." White seconded. **Carried, 5-0.**

Minutes of the January 26, 2002 Estes Lobster House Site Visit - Rogers stated, "I move that we approve the minutes of January 26, 2002 as written." White seconded. **Carried, 5-0.**

Minutes of the January 22, 2002 Public Hearing Minutes - Nannen stated, "I move that the minutes of January 22, 2002 be approved as written." Papacosma seconded. **Carried, 5-0.**

Henderson said that the applicant has asked that the Board table item number six on the agenda, **Larry Crooker, Estes Lobster House, Inc., Site Plan Review (Change of Use), Shoreland Business, Tax Map 18-108, Harpswell Neck Road (Rt. 123), Harpswell (Return from the 1-16-02 Meeting)**, to their meeting in March. - Hatch said he had met with a representative of The Department of Human Services, and the Board will receive a letter from DHS concerning Estes Lobster House and related issues. Hatch said that Chris Belanger of Siteline Engineers, representative for Crooker, will get the State Plumbing Code Standards to the Board. Nannen asked who would address the questions which have been raised by the public. Henderson said the issues raised in the letters are Codes issues and the Codes Officers will address them.

White asked if a well test would be done, and Hatch said he will ask DHS. Rogers asked if the Board of Appeals had handled the consideration of Estes Lobster House issues before, and Hatch said that Attorney Sally Daggett had reviewed the current application and discovered that a Notice of Decision had not been done in 1989, and the Planning Board needs to hear the application now.

Nannen wanted to know if this is a change of use or an expansion. Hatch said the Board needs the numbers first, and then a decision can be made. He said that if the numbers show that there would be more water usage and traffic, then it would be an expansion.

White stated, "I move that the Board table this application until our meeting in March." Nannen seconded. **Carried, 5-0.**

Consideration of an Amendment to the Planning Board By-Laws Regarding Reconsideration of Decisions - The Board considered changes to Section 7 of their by-laws (see attachment). Papacosma said this consideration is more of an opportunity to make an administrative adjustment. He said anything requiring a rehearing would go on the agenda. Henderson stated, "I move that the

Board adopts these proposed changes to our by-laws as submitted on the January 30, 2002 memorandum, and it is effective immediately, and the Planner is directed to investigate whether a notice of this provision could be placed on the Notice of Decision.” Rogers seconded. **Carried, 5-0.** The Board asked that the Planner investigate and decide if an ordinance change is warranted regarding this issue.

Murray and Karen Washburn, Reconstruction of a Non-Conforming Structure, Commercial Fisheries I, Tax Map 25-57, Garrison Cove Road, Harpswell (Return from the 1-16-02 Meeting)

- Bruce Leland of Long Cove Builders, representative for the Washburns, said the requested land use application and the survey have been presented to the Planning Office, and then were given to the Board. Hatch said the Board needs to consider the Washburn application under the Shoreland Zoning Ordinance (SZO), Section 10.3.2.2. He said the Codes Office will make a determination of the 30% expansion issue, the 20% lot coverage requirement has been met, and a foundation will not be put under the structure.

The Board discussed the application, the Shoreland Zoning Ordinance, Sections 10.3.2.1 and 10.3.2.2, and reviewed the plot plan. Henderson stated, “The Board makes the finding of fact that the requirements of the Shoreland Zoning Ordinance, Sections 10.3.2.1 and 10.3.2.2 are met and we believe that the placement of the structure meets the setback to the greatest practical extent.” Rogers seconded. **Carried, 5-0.**

Kenneth and Helen Beebe, Reconstruction of a Non-Conforming Structure, Shoreland Residential, Tax Map 17-19, Basin Point Road, Harpswell (Return from the 1-16-02 Meeting) -

Kenneth Beebe presented their application. The Board reviewed Hatch’s memo, dated February 19, 2002, in which he states that the Beebes cannot combine the two lots into one due to separate ownerships. Hatch said that Roger and Nancy Tuit, abutters, have had a survey of their property done, and have sent it in to the Planning Office. Hatch read a memo from the Tuits, dated February 8, 2002, in which they said they have no problems with the Beebe proposal as long as the new shed is moved, and built entirely on the Beebe property. Mr. Beebe said that each of the two lots has fifty feet of shore frontage.

The Board discussed possible locations for the new shed. Beebe said the present shed was built in 1980, and is 12’ X 14’. He said the new shed would also be 12’ X 14’. Henderson and Nannen thought that maybe this should be a Board of Appeals matter. Nannen said the shed should be placed so as to be as conforming as possible, and should be moved 25’ from the property line.

Nannen stated, “I move that we require that the shed be replaced by a new shed that is a minimum of twenty-five feet northeast of the Tuits property line, and the shed is to be rebuilt in the dimensions of 12’ X 14’.” White seconded. **Carried, 4-1 (Henderson – No).**

Jeffrey and Peter Darling, Site Plan Review (Consideration of Parking Plan), Commercial Fisheries I, Tax Map 64-10, Oakhurst Island, Harpswell - (Nannen wanted it noted for the record

that he did not participate in the discussion or vote regarding this application because he is an abutting landowner.) Peter Darling presented this application, and said the Selectmen had ordered them to come back before the Board for a reconsideration of the parking plan for their marina. He said he felt this was one more tactic the Town is using to delay the applicants.

Hatch read the order from the Selectmen which remanded the parking plan matter back to the Planning Board. The Board had previously approved the site plan for the marina on May 2, 2001. He said that Administrative Assistant Paul Bird had told him that there could be a town road issue connected to this application, dating back to 1930. Hatch read Article 50 voted on at the Town Meeting in February 1930, the Petition to the Town (which contain the survey dimensions), and the Vote and Record documents.

Peter Darling said the Town has been ordered to lay out the road, and at the time the Town road only went to the bridge. He wanted to know how the Town road got over to the island. He said the Town also left off plowing and maintaining the road at the bridge. Darling stated, "The selectmen had no legal right to send us back here."

Hatch read the Harbor and Waterfront Ordinance, Section 8.1.9, which was enacted in March 1991. Henderson read the selectmen's order (see attached), and asked Darling if all of his floats existed prior to 1991. Darling said that they were all put into place in 1990. Hatch read a letter from Town attorney William Dale, dated September 19, 2001, in which Attorney Dale said twenty-nine parking spaces are required for nineteen rental slips.

The Board reviewed the Harbor and Waterfront Ordinance, Section 8.1.9, Attorney Dale's letter, and the parking plan. Peter Darling said the business had been a marina since 1971. Planning Assistant Debora Levensailor and Papacosma read portions of the May 2, 2001 Planning Board minutes regarding the previous decision the Board had made regarding the floats at the Darling marina. White said the ordinance requires that the parking spaces must be at least 9'X 18'. Jeffrey Darling said the spaces are 9' X 20'. Brian Soper said the Sopers have a court order for rights of access across the Darling parking lot and to turn their bait and fuel trucks around in the lot. Peter and Jeffrey Darling said they were willing to reduce the number of rental skips to accommodate the parking requirements is necessary.

Henderson stated, "I move that the Board approves the placement of the following parking spaces on a standard boundary survey received on January 29, 2002 by the Town of Harpswell, and that those are the following numbered spaces: #3 through #14, #15, #16, #18 through #24, #25, #27, #28, #29, #30, and #31, for a total of twenty-seven parking spaces which will support eighteen rental slips, with the condition that there are no legal barriers to the placement of these parking spaces, specifically any rights the Town or citizens may have, and that the applicants shall provide suitable identification of these parking spaces. Nothing in these finding change the other requirements established by the Board on May 2, 2001." White seconded. **Carried, 4-0, 1 abstain (Nannen).**

Richard Pfeffer, Reconsideration of the Decision Regarding a Wharf Application, Resource Protection, Tax map 56-2, Ben Island, Harpswell – Hatch said the Board needs to reconsider a location for the winter storage of the wharfs. Henderson stated, "I move that the Board reconsider the decision regarding the wharf application of Richard Pfeffer." Nannen seconded. **Carried, 5-0.**

Ben Wallace, representative for Pfeffer, said the docks need to be stored in one place. Hatch referenced the letter from Mr. Wallace to Codes Enforcement Officer Carl Adams, dated January 16, 2002. The Board discussed possible locations for the storage of the wharfs and reviewed pictures

which Mr. Wallace had provided. Henderson stated, "I move that the Board amends the original decision of the Board to permit the building of a set of float storage ways as described in the January 16, 2001 letter from Mr. Ben Wallace to Codes Enforcement Officer Carl Adams." Rogers seconded. **Carried, 5-0.**

Bowie Home construction, Reconsideration of the Decision Regarding a Subdivision Proposal, Interior, Tax Map 11-51, Allen Point Road, Harpswell – Henderson stated, "I move that the Board reconsiders the Board's decision regarding a subdivision proposal by Bowie Home Construction." Nannen seconded. **Carried, 5-0.**

Hatch stated, for the record, "In my memo to the Board, I have not made any recommendations about this issue to the Board because Mr. Bowie has asked me to represent him. This decision is at the Board's discretion." Hatch read Doug Johnson's letter, dated February 5, 2002. Hatch said this would allow Mr. Bowie to put the bulk of the weight of the heavy equipment on the road now, before the road is brought up to the local road standards. He said Mr. Bowie has already deposited \$800.00, and will deposit the rest of the required funds, which will take the total amount to the required 150% of the estimated cost of road construction, as determined by Coastal Construction Services. Hatch said Mr. Bowie would do this before any construction begins. Hatch said Bowie wants to begin selling lots, and upgrade the road in the spring, when he is able. He has until August 15, 2002 to complete the road construction. Mr. Bowie would give the Town a bond of 150%. Nannen said the Town could enforce this just like any other codes enforcement issue.

The Board discussed whether or not they believed this to be an adequate amount of funds. Henderson stated, "I move that the Board amends the previous decision of the Board to require that the applicant, in order to receive building permits, post a bond of 150% of the estimated cost to complete the road. This cost estimate shall be obtained by the Town Planner from qualified sources he identifies." Nannen seconded. **Carried, 5-0.**

Other Business: Hatch referenced a memo from Codes Enforcement Officer Carl Adams, dated February 6, 20002, in which Adams discussed the issue of whether or not subdivision approved should be grandfathered to allow more than one dwelling on a lot. Adams wanted to know if someone could build a second dwelling on the property now, if the subdivision was approved prior to 1996. Henderson said he would say no, that the laws have changed. He said the Codes Office should obtain a legal opinion from the town attorney.

Discussion of the Minimum Requirements for Applications Considered by the Planning Board – Henderson stated, "I move that the Board table item number nine to the next Board meeting." White seconded. **Carried, 5-0.**

Henderson stated, "Jeremy and Debbie are an axis of support." White motioned to adjourn the meeting. Papacosma seconded. **Carried, 5-0.** Henderson adjourned the meeting at 10:15pm.

Debora A. Levensailor, Planning Assistant